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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Technical assistance and capacity-building

Situation of human rights in Afghanistan and technical assistance achievements in the field of human rights*

Report of the United Nations High Commissioner for Human Rights

Summary

In the present report, the United Nations High Commissioner for Human Rights describes the situation of human rights in Afghanistan from 1 January to 30 November 2017, and provides an overview of the work and technical assistance conducted by the Human Rights Service of the United Nations Assistance Mission in Afghanistan in cooperation with the Office of the High Commissioner.

The report focuses on the five principal areas of work of the Human Rights Service, namely, the protection of civilians in armed conflict; the protection of children in armed conflict; the elimination of violence against women, and increasing women's participation in peacebuilding and security, and gender equality; the prevention of torture and arbitrary detention; and the integration of human rights into peace and reconciliation processes.

The High Commissioner concludes the report with recommendations addressed to the Government of Afghanistan, anti-government elements, all parties to the conflict and the international community.

* The present report was submitted late owing to a technical error in the submission process.

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I. Introduction

1. The present report, prepared in cooperation with the United Nations Assistance Mission in Afghanistan (UNAMA), is submitted to the Human Rights Council pursuant to its decision 2/113 and resolution 14/15. It covers the period from January to November 2017.

2. The report focuses on the five priority areas of work of the UNAMA Human Rights Service, namely, the protection of civilians in armed conflict; the protection of children in armed conflict; the elimination of violence against women and the promotion of gender equality; the prevention of torture; support to civil society and the integration of human rights into peace and reconciliation processes.

3. During the period under review, the Office of the United Nations High Commissioner for Human Rights (OHCHR) continued to provide support to the human rights mandate of UNAMA.

II. Context

4. In 2017, the escalation in conflict, military engagement and urban attacks by anti-government elements[1] continued to cause high levels of civilian casualties, even though a decline was recorded. While various initiatives by the Government of Afghanistan, other States and the United Nations continued to pursue a peaceful resolution of the conflict, progress towards initiating a peace process did not materialize. The Government remained committed to the protection of human rights; Afghanistan was elected to become a State member of the Human Rights Council in January 2018.

5. The new strategy of the United States of America for South Asia, announced in August 2017, resulted in an increase in foreign troops in Afghanistan. Fighting continued in both rural and urban areas, with anti-government elements resorting to indiscriminate and disproportionate attacks that caused civilian casualties and other forms of harm to civilians. The resilience and spread of Islamic State in Iraq and the Levant (ISIL) – Khorasan Province heightened concerns for the protection of civilians and resulted in more targeted attacks, including against the Muslim Shia minority in Kabul and Herat.

6. The political situation remained unstable, with tensions flaring up periodically within the National Unity Government and with Parliament over appointments, the budget, intensive anti-corruption efforts and election preparations. District and legislative elections were announced for July 2018 and presidential elections for 2019.

7. The economic situation remained dire, with little foreign investments and employment opportunities, leading to widespread urban and rural poverty. Large-scale movement of Afghans departing for Europe and returning from Pakistan and the Islamic Republic of Iran was witnessed in 2016. While the number of outgoing Afghans declined in

[1] A range of groups, primarily the Taliban and the Islamic State in Iraq and the Levant (ISIL) – Khorasan Province, involved in armed conflict with, or in armed opposition against, the Government of Afghanistan and/or international military forces. They include those who identify as "Taliban" and individuals and non-State organized armed groups taking a direct part in hostilities, such as the Haqqani Network, the Islamic Movement of Uzbekistan, the Islamic Jihad Union, Lashkar-e-Tayyiba, Ja-sh-e-Muhammad, groups identifying themselves as "Daesh", and other militia and armed groups pursuing political, ideological or economic objectives, including armed criminal groups directly engaged in hostile acts on behalf of a party to the conflict.

2017, Afghanistan still received almost 570,000 returnees in 2017, overwhelming social services in certain areas. The returnees added to nearly 435,000 new internally displaced persons.[2]

III. Protection of civilians

8. In 2017, UNAMA/OHCHR continued to document civilian deaths and injuries, which still exceeded 10,000, despite a 10 per cent decrease as against the same period in 2016, the first year-on-year decrease in civilian casualties recorded since 2012. Conflict-related violence continued to destroy livelihoods, homes and property, and restricted access to health, education and other services. UNAMA/OHCHR consistently documented ground engagements, suicide and complex attacks and improvised explosive devices as leading causes of civilian casualties. Moreover, increased use of aerial operations by pro-government forces, and targeted and deliberate attacks by anti-government elements, continued to cause civilian casualties.

9. From 1 January to 30 November 2017, UNAMA/OHCHR documented 9,687 civilian casualties (3,183 deaths and 6,504 injured). It attributed 65 per cent of these casualties to anti-government elements and 20 per cent to pro-government forces (comprising the Afghan National Defence and Security Forces, pro-government armed groups and international military forces). Some 11 per cent of casualties resulted from ground engagements between anti-government elements and pro-government forces where responsibility could not be attributed to a specific party to the conflict. The remaining 4 per cent resulted mainly from explosive remnants of war not attributable to any party to the conflict.

10. Civilian casualties caused by ground engagement and non-suicide improvised explosive devices decreased. Civilian casualties caused by suicide and complex attacks, however, increased by 8 per cent, and those caused by aerial strikes by 5 per cent.

11. UNAMA/OHCHR documented a decrease in civilian casualties in all parts of the country, with the exception of the south-eastern and western regions. Decreases in civilian casualties from ground fighting between pro-government forces and anti-government elements, mainly due to the decreases attributed to the former, largely contributed to the overall reduction in civilian casualties in most of the country.

12. In 2017, UNAMA/OHCHR documented an 8 per cent increase in civilian casualties resulting from complex and suicide attacks, mainly in the central, south-eastern, southern and western regions. In the south-eastern region, civilian casualties from such attacks increased nearly ninefold, and sevenfold in the southern region.

13. ISIL – Khorasan Province claimed responsibility for 20 incidents that caused 683 civilian casualties, a 9 per cent decrease in casualties from similar incidents in 2016. Of these, 657 casualties resulted from suicide and complex attacks.

14. On 31 May 2017, UNAMA/OHCHR recorded the single largest incident in Kabul, when a vehicle-borne improvised explosive device killed 92 civilians and injured 491. This was also the single deadliest incident registered since systematic recording of civilian casualties by UNAMA began in 2009. No group claimed responsibility for the incident.

[2] Figures provided by the International Organization for Migration and the Office for the Coordination of Humanitarian Affairs. See also www.humanitarianresponse.info/en/operations/afghanistan.

15. In 2017, UNAMA/OHCHR released five public reports (including two special reports) highlighting civilian deaths and injuries, analysing key trends and addressing recommendations to all parties to the conflict.[3]

A. Anti-government elements

16. Between 1 January and 30 November 2017, UNAMA/OHCHR attributed 6,252 civilian casualties (2,126 deaths and 4,126 injured) to anti-government elements. These figures account for 65 per cent of the total number of civilian casualties, and reflect a decrease of 5 per cent when compared with the same period in 2016. The leading cause of civilian casualties was combined improvised explosive device tactics (namely, non-suicide improvised explosive devices and suicide and complex attacks together), which accounted for 39 per cent of the total number of civilian casualties. The second leading cause of civilian casualties was ground engagements, causing 3,267 civilian casualties (779 deaths and 2,488 injured), representing 34 per cent of the overall rate, a 19 per cent decrease compared with the same period in 2016. Suicide and complex attacks accounted for 22 per cent of all civilian casualties, while non-suicide improvised explosive devices accounted for 17 per cent.

17. In 2017, UNAMA/OHCHR documented 1,097 deaths and injuries resulting from targeted and deliberate attacks on civilians, a 2 per cent decrease compared with the same period in 2016. On 5 August, in Sayyad district in Sari Pul province, Mirza Olang village, a strategically important, predominantly Shia Hazara-inhabited village that had long fought against control of anti-government elements, was attacked by a group of anti-government elements comprising Taliban and local self-proclaimed ISIL/Da'esh of uncertain allegiance. They occupied the village and deliberately shot dead 24 civilians (19 men and five boys) and several hors-de-combat members of pro-government militia.

18. Between January and November 2017, UNAMA/OHCHR recorded a 29 per cent increase in civilian casualties related to attacks against religious figures and places of worship compared with the same period in 2016. Such attacks, mostly suicide and complex attacks, caused 486 civilian casualties (197 deaths and 289 injured). UNAMA/OHCHR attributed 39 of 40 attacks against religious figures and places of worship to anti-government elements.[4] It documented eight cases of sectarian attacks against Muslim Shia places of worship and worshippers, which caused 390 civilian casualties (141 deaths and 249 injuries). ISIL – Khorasan Province claimed responsibility for six incidents that led to 384 of these casualties (140 deaths and 244 injuries). Of those six incidents, four incidents took place in Kabul city and two in Herat city. Of the six incidents, the deadliest occurred on 20 October, when a suicide attacker lobbed a grenade into the women's section of an Imam-e-Zaman Shia mosque, in Kabul city, and detonated his suicide vest among the worshippers, killing 69 and injuring 60, including women and children. Claims of responsibility often included hateful language against Shia Muslims.

19. During the period under review, UNAMA/OHCHR recorded 229 conflict-related incidents of kidnapping or abduction involving 898 civilians; 80 of the victims were killed and 66 injured. While significant, this represents a sharp drop compared with 2016, when 1,844 civilians were abducted.

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[3] See 2017 First Quarter Civilian Casualty Data; *Afghanistan: Protection of Civilians in Armed Conflict*, midyear report 2017; Special Report on Attacks in Mirza Olang: 3 – 5 August 2017; and Protection of Civilians in Armed Conflict: Attacks against Places of Worship, Religious Leaders and Worshippers (available from https://unama.unmissions.org/protection-of-civilians-reports).

[4] One targeted killing of a religious scholar/mullah was attributed to pro-government forces.

B. Pro-government forces

20. In 2017, UNAMA/OHCHR attributed 1,925 civilian casualties (685 deaths and 1,240 injured) to pro-government forces, a 26 per cent decrease compared with the same period in 2016. The decrease resulted mostly from a shift in conflict dynamics, the displacement of civilians from areas of protracted conflict, and measures taken by the Afghan National Defence and Security Forces to protect civilians, including during their military operations and through the relocation of some military bases away from civilian populated areas.

21. UNAMA/OHCHR documented 598 civilian casualties (272 deaths and 326 injured) from airstrikes by pro-government forces, a 5 per cent increase compared with the same period in 2016, amounting to 6 per cent of all civilian casualties. From 9 to 11 February, airstrikes by international military forces killed 26 civilians and injured six others – mainly women and children – in Sangin district, Helmand province. Conducted during operations targeting anti-government elements, the airstrikes appeared to hit civilian homes. They struck one home neighbouring a building used by anti-government elements and two other civilian homes in different areas, killing 20 children and five women, and injuring three children and a woman.

22. UNAMA/OHCHR noted positive developments during the period under review in government policies and mechanisms for civilian casualty mitigation. In October 2017, the National Security Council formally endorsed the national policy on civilian casualty prevention and mitigation, which is intended to strengthen measures taken by the Government to prevent conflict-related harm to civilians. The policy requires the Afghan National Defence and Security Forces to take specific measures to prevent civilian casualties when planning and engaging in military activities, to create a coordinated civilian casualty tracking mechanism, and to investigate all civilian casualty incidents. UNAMA/OHCHR actively supported the drafting of the policy and advocated for its endorsement.

23. On 9 August 2017, the Government deposited instruments of ratification of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects and Protocols I to V thereto. This establishes new obligations to take measures and to allocate additional resources to protect civilians from explosive remnants of war.

24. On 17 October, UNAMA/OHCHR convened its annual protection of civilians dialogue in Kabul, bringing together high-level government and military representatives and members of the international protection community, to discuss plans to meet obligations under the Protocol on Explosive Remnants of War (Protocol V to the above-mentioned Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons) and the implementation of the national policy on the prevention and mitigation of civilian casualties. Government and military representatives pledged to enforce the policy at all levels, and to developing concrete plans of action to implement it and the said Protocol. The Resolute Support Mission of the North Atlantic Treaty Organization (NATO) promised continued support for planning and implementation of related activities.

IV. Children and armed conflict

25. During the period under review, the country task force on monitoring and reporting on children and armed conflict verified 1,531 incidents of killing and maiming, a decrease of 3 per cent compared with the same period in 2016. The task force verified cases of at least 812 children killed and 2,162 injured, a decrease of 9 per cent compared with the same period in 2016.

26. Between January and November 2017, ground engagements accounted for 45 per cent of child casualties, with 1,327 boys and girls killed and injured. Improvised explosive devices were the second leading cause for child casualties, killing or injuring 496 children, followed by explosive remnants of war, which caused 481 deaths and injuries among children. Child casualties from aerial operations increased by 35 per cent compared with the same period in 2016, killing and injuring 263 children.

27. Targeted killings resulted in 126 child casualties, and suicide attacks by anti-government elements caused 142 child casualties, with the highest numbers recorded in the central region, with 69 child casualties. The task force recorded 43 child casualties due to search operations, representing a more than threefold increase compared with the same period in 2016.

28. Anti-government elements were responsible for 44 per cent of all verified child casualties, while 27 per cent of the child casualties were attributed to pro-government forces. Another 18 per cent of child casualties were attributed to both anti-government elements and pro-government forces, and about 1 per cent to cross-border shelling from Pakistan. The remaining 10 per cent could not be attributed to any specific party to the conflict.

29. During the period under review, the task force verified 62 incidents affecting education and education-related personnel, a 2 per cent increase compared with the same period in 2016. Such incidents included attacks on schools and education-related personnel, threats, intimidation and harassment, abduction of education-related personnel and the military use of schools. It attributed 49 such incidents to anti-government elements; seven to pro-government forces; three to both anti-government elements and pro-government forces; and two to Pakistani military forces. One incident could not be attributed to any specific party to the conflict. In addition, the task force documented 10 incidents involving the military use of schools and a teacher training centre. Six of these incidents were attributed to the Afghan National Defence and Security Forces, two to the Taliban and two to ISIL – Khorasan Province.

30. Between January and November 2017, the task force verified 54 incidents affecting access to health facilities and health personnel, a decrease compared with the same period in 2016, when 80 incidents were verified. Fifty incidents were attributed to anti-government elements, and three to pro-government forces, including the Afghan National Army, the Afghan National Police and a pro-government militia; one could not be attributed.

31. In September 2017, 31 health clinics in Uruzgan Province were closed for two and a half months owing to threats by Taliban. The Taliban also forcibly closed 25 health clinics in Badghis Province in September 2017. During the period under review, the task force also verified two incidents of military use of health facilities by the Afghan National Army in Baghlan Province.

32. The task force verified 30 incidents of underage recruitment involving 115 boys, mainly used for planting improvised explosive devices, transporting explosives, conducting suicide attacks, and spying. This figure represents an increase when compared with the 88 children verified during the same period in 2016. The task force attributed the recruitment of 103 boys to anti-government elements and the recruitment of 12 boys to pro-government forces, including the Afghan National Police (seven), the Afghan Local Police (four) and the National Directorate for Security (one). In July 2017, in Chughcharan district, Ghor Province, ISIL – Khorasan Province recruited 11 children and trained them to carry out attacks.

33. The task force documented and verified nine incidents of abduction, involving at least 20 children. The Taliban perpetrated eight incidents involving 18 children, and ISIL – Khorasan Province perpetrated one incident involving two. On 2 November 2017, Taliban fighters abducted four male children (aged 4, 10 and 11 years) in Bilcharagh district, Faryab Province. According to UNAMA/OHCHR sources, the abduction had the aim of

pressuring their fathers (commanders of a pro-government militia group) to withdraw from frontline fighting against Taliban.

34. The task force documented six incidents of rape and sexual violence against children during the period under review. Three incidents involving three boys were verified: one perpetrated by the Taliban, one by the Afghan Local Police, and one by the Afghan Border Police.

35. Anti-government elements continued to deny humanitarian access to areas under their control. The task force documented 27 incidents, a 61 per cent decrease compared with the same period in 2016, when 70 incidents were verified. Incidents included abductions, threats and acts of intimidation, the killing and injury of humanitarian staff (mostly deminers), the denial of access to vaccinators, and damage to or closure of facilities run by humanitarian organizations. The task force attributed all these incidents to anti-government elements, including 21 to the Taliban, three to ISIL – Khorasan Province and three to undetermined elements.

36. UNAMA/OHCHR noted continued progress by the Ministry of the Interior with regard to the expansion of child protection units within the Afghan National Police recruitment centres, where they are responsible for detecting underage candidates. During the period under review, the Ministry inaugurated 11 additional child protection units (in Kandahar, Helmand, Zabul, Nimroz, Kapisa, Khost, Maidan Wardak, Panjshir, Parwan, Ghazni and Logar provinces), bringing the total number to 32. Only two provinces have yet to be covered. The recruitment centres of the Afghan National Police rejected 294 underage applicants in 18 provinces thanks to these units.

37. In March 2017, the revised Penal Code was passed by presidential decree during parliamentary recess, published in May in the Official Gazette (No. 1260), and transmitted to Parliament, where it remained under review at the time of reporting. It entered in force on 15 February 2018. It includes, further to advocacy by UNAMA/OHCHR and others, provisions prohibiting and criminalizing the recruitment and use of children by armed forces (but not by armed groups), and a new chapter criminalizing the practice of *bacha bazi* (maintaining a male or intersex child for the purpose of sexual entertainment).

38. In November 2017, concerted advocacy by UNAMA and the United Nations Children's Fund convinced the Government to transfer 50 children detained on charges related to national security from the maximum-security adult detention facility in Parwan to the juvenile rehabilitation centre of Kabul Province, to ensure that they have better access to legal, educational and social services.

39. The National Directorate for Security made efforts to ensure that the cases of children detained on charges related to national security were dealt with in their provinces of origin, in accordance with its directive 0423. According to the Directorate, between January and November 2017, 110 children were brought to provincial juvenile rehabilitation centres for further processing of their cases.

V. Protection from arbitrary detention and respect for fair trial rights

40. On 24 April, UNAMA/OHCHR released its fourth joint public report on detention since 2011. The report focuses on the implementation of the 2015 national plan on the elimination of torture, covering the period between January 2015 and December 2016. Of the 469 detainees on conflict-related charges interviewed by UNAMA/OHCHR, 39 per cent gave credible accounts of having experienced torture or other forms of cruel, inhuman and degrading treatment during arrest and interrogation in numerous detention facilities run by

the National Directorate for Security and the Afghan National Police. The report also documented a pervasive lack of accountability for such practices.

41. Prior to the release of the report, the Government of Afghanistan indicated its intention to withdraw its reservation to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and the Cabinet approved in principle the decision to ratify the Optional Protocol to that Convention. The implementation of these commitments was pending at the time of reporting. In its voluntary pledges and commitments submitted as part of its candidacy for membership of the Human Rights Council (A/72/377, annex), the Government confirmed its continued commitment to ratifying the Optional Protocol.

42. In March, the Government issued by presidential decree a law on the prohibition of torture and a new Penal Code, which both contain a definition of torture more in line with the Convention against Torture. In September, the President endorsed an annex to the law on the prohibition of torture, with a provision allowing victims of torture to bring legal claims for redress before criminal and civil courts.

43. In April and May 2017, the Committee against Torture reviewed the second periodic report of Afghanistan. In its concluding observations (CAT/C/AFG/CO/2), adopted on 10 May, the Committee expressed deep concern at the allegations of widespread use of torture and ill-treatment and a culture of impunity. It called upon Afghanistan to make sure that all allegations were investigated promptly, thoroughly and impartially, and that alleged perpetrators were prosecuted. It also requested the Government to provide, by 12 May 2018, information on the steps taken on several time-critical recommendations contained in its concluding observations. It also asked the Government to submit its plans for implementing the remaining recommendations.

VI. Death penalty

44. The new Penal Code significantly reduced the number of crimes for which the death penalty applies. On 29 November 2017, however, five men were executed at Pul-i-Charki prison, in Kabul, on charges of abduction and murder. They had been tried, found guilty and sentenced to death by the primary court of Herat on 18 October 2016; the sentence was upheld by the Court of Appeal on 29 November 2016, and by the Supreme Court on 17 June 2017. UNAMA/OHCHR continued to advocate for compliance with fair trial guarantees, in accordance with the Constitution, the Criminal Procedure Code and the International Covenant on Civil and Political Rights. At the time of reporting, 720 persons were still on death row.

VII. Elimination of violence against women and promotion of women's rights

45. The prevalence of violence against women and harmful traditional practices remained a matter of concern. Harmful traditional practices continued to be confused as belonging to Islamic law or teachings despite their criminalization under the 2009 law on the elimination of violence against women. Application of the law by law enforcement and judicial practitioners has consequently been uneven.

46. UNAMA/OHCHR monitored and documented cases of violence against women and girls, monitored the implementation of the law on the elimination of violence against women, and engaged in advocacy to promote rights of women and girls. While the said law remains the main legal framework protecting women and girls from violence, its facilitation

of mediation by permitting complainants to withdraw their cases at any stage of proceedings, except in the case of five serious offences,[5] remains a major shortcoming.

47. From January to November 2017, UNAMA/OHCHR documented 537 cases of alleged violence against women, including 46 cases of honour killing and 116 cases of murder. In 96 of those cases, the victims were minors. Of the 51 cases documented for mediation, 22 were mediated by informal justice mechanisms. Focus group discussions held by UNAMA/OHCHR between 19 January and 30 August 2017 with 933 participants (including 446 women) showed that, in the absence of a legal framework or guidelines on the mediation of cases of violence against women, mediation adversely affected women survivors. Respondents from 30 of the 34 focus group discussions recommended regulation. A draft regulation on mediation, sent to the Ministry of Justice in August 2016 for submission to the Council of Ministers for their approval and endorsement, has yet to be finalized.

48. The Government opened courts trying cases of violence against women in 15 provinces, plus Kabul. Offices responsible for prosecuting cases of violence against women were established in all 34 provinces, of which 25 have female prosecutors. Despite this progress, women's access to justice remained difficult owing to, inter alia, distance from and the cost of travel to provincial capitals, where most judicial services are located; the fluid security situation, which makes its risky for women to travel; and the requirement of a male escort, which limits confidentiality.

49. On 11 February, in Wama district, Nuristan Province, a 17-year-old girl and a man were killed near a police station where they had sought protection. They were allegedly killed by family and community members who had accused the couple of eloping. From January to November 2017, UNAMA/OHCHR documented four incidents of parallel justice punishment by anti-government elements on accusations of moral crimes, such as eloping and committing or attempting to commit *zina* (having sex outside of marriage), which led to the execution of four women, including one by stoning and lashing. Such practices violate the Constitution of Afghanistan and amount to grave human rights abuses.

50. On 18 April 2017, the wife of the President launched a national plan of action to eliminate early and child marriage (2017–2021). The plan is aimed at addressing the complex nature of early and child marriage in Afghanistan, encouraging stakeholders to consider its root causes and to identify areas for improvement in access to and the delivery of effective and efficient services. To date, however, implementation has been slow and funds lacking.

51. On 8 March 2017, the Government launched a national priority plan on women's economic empowerment, which is aimed at expanding women's access to economic resources, empowering girls with information, skills and formal education, and promoting legal and policy framework to promote women's rights. Pursuant to the plan, on 8 August, the Office of the Chief Executive established the Executive Committee on Women's Empowerment to facilitate high-level coordination among stakeholders.

52. On 5 March 2017, the Ministry of Foreign Affairs commenced drafting the third periodic report of Afghanistan, to be submitted to the Committee on the Elimination of Discrimination against Women; An initial draft of the report, due in July 2017, was prepared with support of the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and is currently under review; the date for the likely submission of the report to the Committee remains to be determined.

[5] Rape, forced prostitution, recording and publishing the identity of victims of violence against women, burning or using chemicals or poison to injure or intimidate, and forced self-immolation.

53. During the period under review, the proportion of women in the Afghan National Police rose by 8 per cent compared with the same period in 2016 (from 3,126 to 3,379 policewomen, as at 21 November 2017). To address sexual harassment against women in the police force and the workplace, the Ministry of the Interior worked on finalizing its internal complaints procedure, thereby implementing the decision made in July 2016 to establish such a mechanism, which, pursuant to the presidential order issued in 21 November 2016 instructing all security sector agencies to improve workplace safety for women. According to the report of the Afghanistan Independent Human Rights Commission released on 25 November 2017, entitled "Situation of Women Employed in Defense and Security Sectors", of 579 female respondents in the police force, 20 per cent claimed that they had experienced sexual harassment in the workplace. In the report, the Commission also noted, however, that the Ministry of the Interior had not recorded any complaints of sexual harassment of policewomen since March 2017.

54. More generally, the mechanisms to combat sexual harassment against women in the workplace remained largely ineffective owing to underreporting, which is mainly due to the social stigma attached to the issue. Between March and November 2017, the Ministry of Women's Affairs registered one complaint, while a study by the Women and Children Legal Research Foundation revealed that, between March 2016 and March 2017, 10 complaints were registered with the provincial commissions on the elimination of harassment against women: two in Herat Province and eight in Bamyan Province.[6] On 9 January 2017, the Joint Commission of the Upper and Lower Houses of Parliament approved the law on the elimination of harassment against women and girls, which was published in the Official Gazette on 31 December.

55. Despite some progress, women continued to face obstacles to their participation in public life, including social and economic activities. Challenges include the security situation, restrictions imposed by anti-government elements, and harmful traditional practices. Targeted attacks and threats against women, particularly those employed by the Government, continued. On 28 June, two policewomen were targeted and killed by the Taliban in Faizabad City, Badakhshan Province. On 29 July, a local female journalist was threatened by the Taliban, in Farah City, Farah Province.

56. At the time of writing, the new Penal Code was under review by Parliament. The Code improves the State's compliance with international standards in criminal justice, and also criminalizes the forced virginity test, a practice prevalent within law enforcement agencies adopted to "prove" the commission of adultery. In August 2017, however, these improvements were overshadowed by the removal of the entire chapter on violence against women, on the instruction of the Government. This decision followed a campaign by women's groups that feared that Parliament may amend the chapter and leave women with less protection than in the current 2009 law.

57. The Government pursued its efforts to increase women's role in peace processes, an imperative that was reiterated by 105 women who participated in the fourth Afghan Women's Symposium, held from 15 to 17 May. On 2 July, five new female members were nominated to the High Peace Council, the representation of women thereby increasing to 12 members in both the Executive Board (four) and the General Assembly (eight). The 480 members of the peace councils include 65 women: 12 in the High Peace Council and 53 in the provincial peace councils. Women also participate in all five committees of the High Peace Council; however, only one of the seven sections of the Joint Secretariat of the Council is led by a woman.

[6] See Women and Children Legal Research Foundation, "Call to End Sexual Harassment Against Women and girls in Afghanistan", 1 January 2018.

58. While the Government continued to implement the national plan on Security Council resolution 1325 (2000) on women, peace and security, its efforts were hampered by lack of funding. On 23 October, the Ministry of Foreign Affairs announced that a revised budget of $52 million for the plan had been finalized in September; the budget was, however, further revised in December 2017. The Government has been engaging with donors on funding mechanisms.

59. Despite some progress, women's participation in positions of decision-making remained low. On 21 February, the Central Statistic Organization of Afghanistan released the results of a survey on the role of women and men in decision making, which indicated that the share of women in decision-making had increased only by 0.8 per cent during 2013-2016, from 9.9 per cent in 2013 to 10.7 per cent in 2016.[7]

60. Similarly, the representation of women in the civil service remains below the Government's target of 30 per cent. UNAMA/OHCHR continued to advocate for an increase in women's participation in the Afghan civil service, political and social spheres of life, and in peace negotiations, and conducted activities to raise public awareness of women's rights. Between 17 October and 22 November, it organized 13 events in 12 provinces for the Global Open Day dialogue, with 364 participants (including 303 women) from 21 provinces. The process culminated in an event held in Kabul, on 22 November, which brought together 31 women and five men from civil society, including women's organizations, the Government and key electoral stakeholders. The dialogue focused on strengthening the participation of women in all aspects of the electoral process across Afghanistan. UNAMA/OHCHR compiled the information gathered during these consultations and informally disseminated a non-public report. The report will also inform UNAMA/OHCHR advocacy with the Government on increasing the participation of women at all stages of the elections scheduled for 2018 and 2019.

VIII. Peace and reconciliation, including accountability and transitional justice

61. In 2017, UNAMA/OHCHR engaged with civil society, human rights defenders and the Afghanistan Independent Human Rights Commission to end impunity for human rights violations, to support efforts to end discrimination, and to promote inclusive peace agreements. In particular, it supported efforts to promote the centrality of the human rights of women, girls, minorities and other vulnerable groups, and their active participation in the political and social spheres, including in peace processes.

62. Following the agreement reached in October 2016 between the Government and the armed group Hizb-i Islami, the group's leader, Gulbuddin Hekmatyar, returned to Kabul in May 2017. OHCHR remained concerned about provisions in the agreement granting the group's leaders immunity and including the release of its prisoners, which could preclude the prosecution of individuals who may be legally responsible for war crimes, genocide, crimes against humanity and other gross violations of human rights. Two batches of 55 and 13 prisoners were released in 2017, with hundreds more envisaged.

63. UNAMA/OHCHR closely followed developments at the International Criminal Court and the formal request, made on 20 November, by the Chief Prosecutor of the Court to the Pretrial Chamber for judicial authorization to commence investigation of alleged war crimes and crimes against humanity committed in Afghanistan since 1 May 2003. Owing to the context in Afghanistan, the Pretrial Chamber allowed victims of alleged war crimes and

[7] Central Statistics Organization, "Women and Men in Decision Making", 2016, Phase III, p. 27.

crimes against humanity an extended period, ending on 31 January 2018, to make representations.

64. UNAMA/OHCHR engaged with the 20 organizations grouped in the Transitional Justice Coordination Group to promote efforts for sustainable and justice-based peace and reconciliation processes. In a press statement issued on 26 November 2017, the group expressed its support for the decision of the Prosecutor of the International Criminal Court. Moreover, it requested the Government to fulfil its obligations under the Rome Statute and to support and protect victims, witnesses and personnel of the International Criminal Court visiting the country. The Government renewed its commitment to cooperating with the Court in its voluntary pledges as a candidate to the Human Rights Council (see A/72/377. annex), and invited the Court to visit Afghanistan.

65. UNAMA/OHCHR continued to monitor peace and reconciliation efforts and to foster the inclusion of civil society in the peace process by promoting space for civil society, and enhancing its advocacy skills and understanding of international human rights norms and standards. With the Afghanistan Independent Human Rights Commission, UNAMA/OHCHR organized round-table discussions and seminars to promote civil society engagement in peace processes and capacity-building for civil society organizations. It also supported networks in their engagement with human rights monitoring and reporting. During 2017, UNAMA/OHCHR conducted 59 events, gathering civil society activists, human rights defenders, the media and journalists to discuss such issues as the promotion of human rights, freedom of expression, the protection of journalists, widening the space for civil society, and women's participation. The events, held in 27 provinces, saw the participation of 1,475 people (approximately one third of participants were women).

66. UNAMA/OHCHR finalized 34 provincial road maps for peace resulting from local consultations conducted over recent years. Four of the road maps were discussed with local communities in a peacebuilding project of a partner organization in four provinces (Bamyan, Kunduz, Parwan and Balkh); the findings were discussed with the Afghan High Peace Council in a national conference in October 2017. The road maps will be launched in early 2018.

67. UNAMA/OHCHR maintained its constructive engagement with the Afghanistan Independent Human Rights Commission, cooperating on regular basis on issues including the protection of civilians, and support for human rights defenders and survivors of violence against women, while also consulting at the senior level on sensitive cases and issues in its engagement with United Nations human rights mechanisms.

68. UNAMA/OHCHR participated in broadcasting 18 public awareness-raising radio programmes for the promotion and protection of human rights, particularly women's rights, freedom of expression and protection of civilians, through local radios in the south and central regions.

IX. Safety of journalists and media workers

69. UNAMA/OHCHR closely monitored the application of the Procedures for Ensuring the Safety and Security of Journalists and the Media,[8] implemented jointly by the Government and a federation of Afghan media organizations and journalists, by observing the work of the media and government joint committee for the safety and security of journalists. It observed that, despite the approval of the access to information law by the

[8] On file with OHCHR.

Government, individuals and journalists faced challenges in obtaining accurate information from government sources.

70. In 2017, civil society actors, including human rights defenders and media personnel, faced more threats and restrictions. Attacks against media workers and women activists by anti-government elements are indicative of the challenges faced by civil society. Human rights defenders also faced arrests and acts of intimidation from the security authorities on charges related to national security.

71. Anti-government elements subjected journalists and media outlets to threats, acts of intimidation, deliberate attacks and killings, labelling specific outlets "military targets". Two television stations, Shamshad TV in Kabul, and Radio-Television Afghanistan in Nangarhar, were attacked by ISIL – Khorasan Province. A local radio station was attacked and burned down in Ghor Province.

72. In 2017, 14 media workers, including three journalists, were killed. Four of them were targeted during the attack by the ISIL – Khorasan Province on Radio-Television Afghanistan, on 17 May, in Nangarhar; one was targeted by unidentified gunman in Baghlan; and four were among the casualties in an explosion in Kabul, on 31 May. Two others were killed in a suicide attack on the Afghan Parliament television station.

73. In addition, reports were received of State actors or local power brokers subjecting journalists to beating, arbitrary detention and harassment, and of obstructing access to information and reporting.

74. In 2017, UNAMA/OHCHR also verified threats against civil society activists and human rights defenders that created a climate of fear and further inhibited their ability to perform their work. It recorded 12 cases of such threats, mainly by anti-government elements, in the central, southern, north-eastern and south-eastern regions, and in the central highlands. On 18 July, a human rights defender from Badghis Province was threatened by the Taliban, and told to resign from his position.

75. The development, and subsequent adoption on 19 December 2016, of a protection strategy for human rights defenders by the Afghanistan Independent Human Rights Commission, including possibilities of temporary or permanent relocation of defenders at risk, is a positive step in the protection of defenders.

76. In July 2017, the Government introduced a draft law to replace the law on gatherings, demonstrations and strikes. After civil society organizations and the Afghanistan Independent Human Rights Commission expressed concerns at the potential limitations to freedom of assembly that the law may generate, it was amended and passed on 5 September, by presidential decree, before transmittal to the Parliament on 2 October. At the time of writing, Parliament had not yet taken action.

X. Cooperation with the United National human rights mechanism

77. In April 2017, UNAMA/OHCHR briefed the Committee against Torture in closed session ahead of the review of the second periodic report of Afghanistan. Exchanges were also held with the secretariat of the Committee on the Elimination of All Forms of Racial Discrimination, which has been awaiting the periodic report of Afghanistan for more than three decades. This issue has been added to the Government's workplan for 2018. The Government intends to submit its second to fifth reports to the Committee on the Rights of the Child by March 2018.

78. On 15 August 2017, the Government issued a standing invitation to all special procedures of the Human Rights Council. On 16 October, Afghanistan was elected by the General Assembly to be a member of the Human Rights Council for three years, starting from 1 January 2018. The Government is working to implement its voluntary pledges and commitments (see A/72/377, annex), which contain positive elements on strengthening the rule of law, the rights of women and children, internally displaced persons and refugees, and accountability. The Government is also committed to submitting in late 2018 its report for the third cycle of the universal periodic review, to be held in January 2019. UNAMA/OHCHR will support the Government in implementing these commitments.

XI. Conclusions

79. In 2017, the overall deterioration in security and the lack of resources for public policies had an adverse impact on the situation of human rights. Civilian casualties remained high, and continued conflict and insecurity gave rise to further political and economic uncertainty. The prospects for the achievement of a sustainable peace therefore remained limited.

80. Although the Government took steps to increase respect for women's rights, the actual participation of women in all spheres of life, including peace processes, remained low. Women also continued to suffer from various forms of violence and harassment.

81. The adoption of the new Penal Code opens a way towards the establishment of a progressive legal framework by criminalizing several harmful practices and introducing command responsibility; concerns remain, however, in particular since the removal of its provisions on violence against women.

82. Civic space remained subject to enormous constraints. Civil society actors, including human rights defenders, specifically women human rights defenders and activists, and journalists faced threats, acts of intimidation and harassment and, at times, deadly attacks.

83. While the decision of the Prosecutor of the International Criminal Court to move forward on the situation in Afghanistan may provide much needed accountability on major crimes, the few cases dated after 2003 on which the Court could investigate and possibly adjudicate may not be sufficient to satisfy the expectations of many Afghans for justice. Complementary initiatives at the national level are therefore required.

XII. Recommendations

84. The United Nations High Commissioner for Human Rights recommends that the Government of Afghanistan:

(a) Create a climate conducive to respect for human rights by expanding and implementing the legal framework and strengthening relevant institutions, and fulfil its voluntary pledges and commitments as presented to the General Assembly in support of its candidature to the Human Rights Council;

(b) Implement the national policy on civilian casualty prevention and mitigation, and finalize the related plan of action, which should include concrete objectives and measures to prevent casualties in the conduct of hostilities; strengthen

measures to investigate all incidents of conflict-related harm to civilians; and further strengthen the dedicated entity for the documentation of conflict-related incidents;

(c) Develop a plan of action to meet its obligations under the Protocol on Explosive Remnants of War (Protocol V) to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects;

(d) Build and expand the capacity of the Afghan National Defence and Security Forces to adequately monitor, identify and prevent cases of underage recruitment by establishing child protection units in all provinces; address the lack of services and alternatives for children who have been rejected for recruitment by the Afghan National Defence and Security Forces owing to their young age or who have been released from active service;

(e) Ensure due process and full protection of the rights of children detained on allegations of national security-related charges by developing and enforcing operating procedures and regulations, in accordance with national and international juvenile justice standards, and by reviewing the cases of children who have been detained without trial for prolonged periods of time;

(f) Ensure that appropriate, child-specific provisions and adequate resources are included in any peace and reconciliation process;

(g) Ensure that victims of violations have an effective remedy; strengthen procedures to ensure gender-sensitive and inclusive reparations, including compensation for families of civilians killed and injured in conflict-related violence, and raise public awareness of these procedures; and pay special attention to ensuring equal and effective access for women and girls;

(h) Increase efforts to prevent, punish and eradicate all forms of violence against women through the adoption and implementation of legal and policy frameworks compliant with international human rights standards; strengthen the capacity of the criminal justice system to ensure accountability; and conduct countrywide campaigns to raise women's awareness of the remedies available in cases of violence, including mediation procedures;

(i) Expedite completion and submission of the State's periodic report to the Committee on the Elimination of Discrimination against Women;

(j) Ensure the swift implementation of the national plan on Security Council resolution 1325 (2000) by providing dedicated human and financial resources and creating accountability mechanisms to track and report on its effective application, so as to ensure women's meaningful participation in all peace and reconciliation processes;

(k) Engage civil society meaningfully in all stages of peace and reconciliation processes, and protect the space for civil society actors, particularly women and girls, working on peace and reconciliation processes and transitional justice initiatives;

(l) Implement a robust vetting process to prevent members of armed groups involved in serious crimes, such as violations of international humanitarian law and international human rights law, from being recruited by security or government institutions as part of any peace settlement, while ensuring that no blanket amnesty or immunity is granted and that victims' rights are respected;

(m) Ensure that impunity for violations committed against journalists and civil society actors ends, that all violations are investigated promptly and

thoroughly, and that perpetrators are brought to justice; and ensure that journalists and civil society actors enjoy their legitimate rights to freedom of expression and to have access to information, without fear of reprisal or attack;

(a) Establish a de jure moratorium on the death penalty, and respect international standards that provide safeguards guaranteeing protection of the rights of those facing the death penalty, in particular article 6 of International Covenant on Civil and Political Rights and the minimum standards set out in the annex to Economic and Social Council resolution 1984/50; improve the ability of the judiciary to guarantee fair trials and due process in all criminal proceedings, pursuant to article 14 of the Covenant; and consider the experiences of other countries that have faced mass atrocities and violence and have moved towards the abolition of the death penalty while seeking justice for victims;

(o) Inform the Committee against Torture, by 12 May 2018, about plans for implementing some or all of the recommendations contained in its concluding observations on the second periodic report of Afghanistan (CAT/C/AFG/CO/2);

(p) Initiate an inclusive process to prepare the long-pending report to the Committee on the Elimination of Racial Discrimination, and open a public debate on issues of ethnic and religious diversity and on discrimination.

85. The United Nations High Commissioner for Human Rights recommends that anti-government elements:

(a) Cease the deliberate targeting of civilians (including government officials, journalists, tribal elders, religious leaders, human rights defenders, judges and prosecutors) and civilian locations, and of places of worship and culture, in recognition of their civilian nature guaranteed under international humanitarian law;

(b) Issue statements recognizing the important role of civil society actors, notably human rights defenders and journalists, including women and girls, and their right to freedom of expression and critical opinion, and denouncing attacks against the media and civil society, acknowledging and respecting their civilian status;

(c) Cease the use of improvised explosive devices in all areas frequented by civilians, and the use of illegal pressure-plate improvised explosive devices and the firing of explosive weapons, particularly mortars, rockets and grenades from and into civilian-populated areas; and respect at all times the civilian status of humanitarian deminers;

(d) Uphold statements by national leaders regarding the human rights of women and girls in areas under Taliban influence, in particular by ceasing attacks and threats against girls' education, teachers and the education sector in general;

(e) Cease indiscriminate attacks against members of religious minorities and their justification using a language of hatred.

86. The United Nations High Commissioner for Human Rights recommends that all parties to the conflict:

(a) Refrain from targeting civilian objects, including schools and hospitals, and take the measures necessary to cease indiscriminate attacks against civilian objects;

(b) Facilitate humanitarian access to all people, and ensure that human rights actors are able to monitor and report on attacks affecting civilians and civilian objects, in accordance with international humanitarian law and international human rights law;

(c) Ensure accountability for the perpetrators of attacks against civilians and civilian objects, in particular when such attacks amount to violations of international humanitarian law or international human rights law;

(d) Foster an environment conducive for civil society to operate safely and freely, including human rights defenders, journalists and other media workers, in particular women and girls;

(e) Guarantee the protection of civil society actors, including journalists and human rights defenders, as civilians under international humanitarian law, and respect their right to monitor and report freely on the armed conflict, without fear of attack or reprisal for their work.

87. **The United Nations High Commissioner for Human Rights recommends that the international community:**

(a) Support the Afghan security forces in their efforts to prevent civilian casualties, and protect civilians from the harm of conflict-related violence;

(b) Encourage the Government of Afghanistan to deliver on its pledges and commitments made before it became a member of the Human Rights Council, including with regard to cooperation with the International Criminal Court;

(c) Support the Government's efforts to advance the women, peace and security agenda, including through the implementation of the national plan on Security Council resolution 1325 (2000), through technical support, resources and targeted advocacy;

(d) Advocate with parties to the conflict for women's effective and meaningful participation in informal and formal peace negotiations and the protection of their rights through future peace agreements;

(e) Promote a just and inclusive peace process by supporting civil society actors in their transitional justice efforts and their active participation in peace and reconciliation processes;

(f) Ensure that the rights of victims and their families and witnesses are respected and protected in peace and reconciliation processes and settlements;

(g) Assist the Government, through resource mobilization, to implement fully its commitments under the plan of action on children in armed conflict.